

**Introduced by Senator Polanco
(Principal coauthor: Senator Lockyer)**

December 2, 1996

An act to add and repeal Chapter 12 (commencing with 91200) to Title 9 of the Government Code, relating to the Political Reform Act of 1974, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 49, as introduced, Polanco. Political Reform Act of 1974: electronic filing.

Existing provisions of the Political Reform Act of 1974 require specified candidates for public office and committees supporting or opposing candidates or ballot measures to periodically file reports with the Secretary of State and certain local officials setting forth information concerning contributions they received and expenditures they made during the specified reporting period. Existing provisions of the act also require lobbyists, lobbying firms, and lobbyist employers to periodically file specified reports and statements with the Secretary of State.

This bill would require the Secretary of State to develop a process whereby reports and statements that are required under the act to be filed with the Secretary of State could be filed electronically and viewed by the public at no cost by way of the largest nonproprietary, cooperative public computer network.

This bill would establish time frames within which the Secretary of State must implement this process and within

which controlled committees of elected state officers that receive contributions, and any other committees that receive contributions or make expenditures of \$50,000 or more, and lobbyists, lobbying firms, and lobbyist employers that file these reports and statements, must begin to file them electronically. These time frames would include a requirement that, if certain conditions are met, the Secretary of State establish a pilot electronic filing program in connection with the 1998 state election cycle. The bill would require that the Secretary of State implement its provisions statewide no later than January 1, 1999.

This bill would permit committees that are not required to file electronically to do so.

This bill would require the Secretary of State to define a standardized record format or formats for transmission of data required to be filed by this bill, certify commercial vendors who develop computer software that complies with these formats, and publish a list of certified vendors that also identifies the software programs and vendors that are available at a cost of \$99 or less. If, by an unspecified date, a software program for \$99 or less cannot be certified, the provisions of this bill would be repealed.

This bill would require that persons who are subject to these electronic filing requirements must continue to file paper copies of these reports and statements as currently required under the act until the Secretary of State is satisfied with the performance of the electronic filing system.

This bill would not require local officials who also receive filings of these reports and statements to maintain a similar electronic filing system, but would impose a state-mandated local program by requiring county elections officials to receive this information from the Secretary of State.

The bill would provide, pursuant to a specified provision of existing law, that no employee or official of a state or local government agency shall utilize, for political or campaign purposes, public facilities or resources to retrieve or maintain any of the data produced pursuant to the bill.

This bill would appropriate the sum of \$550,000 to the Secretary of State for the purposes of developing the

electronic reporting system and reimbursing local agencies for any costs they incur in the development of the system.

Existing law makes a violation of the act subject to administrative, civil, and criminal penalties.

This bill would impose a state-mandated local program by imposing these penalties on certain persons who violate the provisions of the bill.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, except as provided in this act, no reimbursement is required by this act for specified reasons.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes with a $\frac{2}{3}$ vote of each house and compliance with specified procedural requirements.

This bill, which would declare that it furthers the purposes of the act, would therefore require a $\frac{2}{3}$ vote.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 12 (commencing with Section
2 91200) is added to Title 9 of the Government Code, to
3 read:

4
5 CHAPTER 12. ELECTRONIC FILING

6
7 91200. This chapter shall be known and may be cited
8 as the Electronic Filing Disclosure Act.

9 91201. Public access to campaign and lobbying
10 disclosure information required by this title, and now
11 provided only in paper format, is extremely limited. As a
12 result, the major purpose of this title, providing for a fully
13 informed electorate, is not being accomplished. To
14 correct this inadequacy, it is the intent of the Legislature
15 that an electronic filing system be developed so that the
16 public, via computer network, will have the widest

1 possible access to state campaign and lobbying disclosure
2 information.

3 91202. To implement the Legislature's intent, the
4 Secretary of State, notwithstanding any other provision of
5 this title or any other provision of the Government Code,
6 shall do all of the following:

7 (a) Develop an electronic filing process for use by all
8 persons and entities required to file statements and
9 reports with the Secretary of State's office pursuant to
10 Chapter 4 (commencing with Section 84100) and
11 Chapter 6 (commencing with Section 86100) of this title.

12 (b) As part of that process, the Secretary of State shall
13 define a standardized record format or formats for
14 transmission of the data required of those persons and
15 entities specified in subdivision (a), and which conforms
16 with the disclosure requirements of this title.

17 (c) Certify commercial vendors who develop
18 computer software for compliance with the standardized
19 record format developed pursuant to subdivision (b) and
20 publish a list of all certified commercial vendors,
21 designating thereon the software programs that are
22 available at a cost not to exceed ninety-nine dollars (\$99)
23 and the vendors thereof. If, by ____, 19____,
24 there are no software programs available at a cost of
25 ninety-nine dollars (\$99) or less that comply with the
26 requirements of subdivisions (a) and (b), the provisions
27 of this chapter are repealed.

28 (d) Provide the infrastructure to accept the
29 electronically transmitted data, and make the data
30 available on the largest nonproprietary, cooperative
31 public computer network in a format that is easily
32 understood and by means that will provide the greatest
33 public access to the information.

34 (e) Develop a system for the electronic transfer of the
35 data specified in this section that utilizes public and
36 private "keys" in connection with digital signatures that
37 ensures the integrity of the data transmitted.

38 (f) Maintain all data filed online for a period of 10 years
39 after the date it is filed, then archive it permanently in a
40 secure format.



1 (g) Provide assistance to persons seeking access to the
2 data on the computer network.

3 91203. The Secretary of State shall implement the
4 provisions specified in Section 91202 no later than January
5 1, 1999. However, if all mandated development,
6 procurement, and oversight procedures have been
7 achieved and complied with, the Secretary of State shall
8 implement a pilot electronic filing program in
9 connection with the 1998 state election cycle, as specified
10 in subdivision (a). Thereafter, filers identified in
11 subdivision (a) of Section 91202 shall file required
12 disclosure statements and reports in the prescribed
13 electronic format in accordance with the following
14 timetable and monetary thresholds:

15 (a) For purposes of the 1998 pilot electronic filing
16 program, any committee that receives contributions or
17 makes expenditures totaling one hundred thousand
18 dollars (\$100,000) or more between January 1, 1997 and
19 December 31, 1998, either to support or oppose one or
20 more candidates for statewide elective office, or to
21 support or oppose one or more statewide ballot measures,
22 shall file electronically.

23 (b) Beginning on January 1, 1999, and for all reporting
24 periods thereafter, any controlled committee of an
25 elected state officer that receives contributions, and any
26 committee that receives contributions or makes
27 expenditures totaling fifty thousand dollars (\$50,000) or
28 more in any calendar year either to support or oppose one
29 or more candidates for any elective state office or to
30 support or oppose one or more statewide ballot measures,
31 shall file electronically.

32 (c) Lobbyists, lobbying firms, lobbyist employers, and
33 other persons required to file disclosure reports pursuant
34 to Chapter 6 (commencing with Section 86100) of this
35 title may file electronic reports voluntarily as soon as the
36 Secretary of State has implemented the system during
37 the 1997–98 Regular Session of the Legislature. Beginning
38 with the 1999–2000 Regular Session of the Legislature,
39 and thereafter, electronic filing of these reports shall be
40 mandatory.

1 (d) Filers specified in subdivision (a), (b), and (c) of
2 this section shall also file paper-generated statements and
3 reports as a form of backup until a time that the Secretary
4 of State is satisfied that filings pursuant to the electronic
5 filing system will meet all of the pertinent requirements
6 of this title, including availability for public inspection.
7 Copies of campaign statements filed electronically with
8 the Secretary of State need not be filed with local filing
9 officers, but the Secretary of State shall, immediately
10 after receipt make this data available to the appropriate
11 local filing officers.

12 (e) Committees that are not required to file
13 electronically by this section may file either in paper
14 format or electronically. However, if a committee initially
15 files in paper format and later becomes subject to
16 subdivisions (a) or (b), it shall refile previously filed
17 reports electronically, and all subsequent reports
18 electronically.

19 (f) Local government agencies may enact their own
20 electronic filing requirements.

21 (g) Pursuant to Section 8314, no employee or official
22 of a state or local government agency shall utilize, for
23 political or campaign purposes, public facilities or
24 resources to retrieve or maintain any of the data
25 produced by the requirements of this chapter.

26 91204. (a) No action taken pursuant to this chapter
27 shall be deemed to alter or relinquish any copyright or
28 other proprietary interest or entitlement of the State of
29 California relating to any of the information made
30 available pursuant to this chapter. The source code,
31 executable code, operating procedures, and complete
32 documentation of all computer programs, including the
33 general system design and physical system design,
34 developed to implement the electronic reporting process
35 shall be placed in the public domain prior to any required
36 usage.

37 91205. There is hereby appropriated from the
38 General Fund of the state to the Secretary of State the
39 sum of five hundred fifty thousand dollars (\$550,000) for
40 the purposes of developing the electronic reporting



1 system provided by this chapter and reimbursing local
2 agencies for any costs they incur in the development of
3 this system.

4 SEC. 2. No reimbursement is required by this act
5 pursuant to Section 6 of Article XIII B of the California
6 Constitution for certain costs that may be incurred by a
7 local agency or school district because in that regard this
8 act creates a new crime or infraction, eliminates a crime
9 or infraction, or changes the penalty for a crime or
10 infraction, within the meaning of Section 17556 of the
11 Government Code, or changes the definition of a crime
12 within the meaning of Section 6 of Article XIII B of the
13 California Constitution.

14 Moreover, except for the costs to be reimbursed
15 pursuant to the appropriation set forth in Section 1, no
16 additional reimbursement is required by this act pursuant
17 to Section 6 of Article XIII B of the California
18 Constitution because certain provisions of this act
19 provide for offsetting savings to local agencies or school
20 districts that result in no net costs to the local agencies or
21 school districts, within the meaning of Section 17556 of
22 the Government Code.

23 Notwithstanding Section 17580 of the Government
24 Code, unless otherwise specified, the provisions of this act
25 shall become operative on the same date that the act
26 takes effect pursuant to the California Constitution.

27 SEC. 3. The Legislature finds and declares that the
28 provisions of this act further the purpose of the Political
29 Reform Act of 1974 within the meaning of subdivision (a)
30 of Section 81012 of the Government Code.

